

Grand Jury Subpoena 0108

United States District Court

SOUTHERN DISTRICT OF NEW YORK

TO: Amerindo Investment Advisors Inc.
Attn: Custodian of Records

GREETINGS:

WE COMMAND YOU that all and singular business and excuses being laid aside, you appear and attend before the GRAND JURY of the people of the United States for the Southern District of New York, at the United States Courthouse, Foley Square (40 Centre Street), Room 209, in the Borough of Manhattan, City of New York, New York, in the Southern District of New York, at the following date, time and place:

Appearance Date: June 16, 2005

Appearance Time: 10:00 a.m.

to testify and give evidence in regard to an alleged violation of:

Title 18, United States Code, Sections 1341, 1343, 1956, 1957, and 2

Title 15, United States Code, Sections 80b-6 and 80b-17

and not to depart the Grand Jury without leave thereof, or of the United States Attorney, and that you bring with you and produce at the above time and place the following:

SEE ATTACHED RIDER

N.B.: Personal appearance not required if the requested documents are delivered or made available on or before the return date to Cynthia Fraterrigo, Postal Inspector, U.S. Postal Inspection Service, P.O. Box 191, New York, New York 10008, tel: 212-330-5239; fax: 212-330-5228.

Failure to attend and produce any items hereby demanded will constitute contempt of court and will subject you to civil sanctions and criminal penalties, in addition to other penalties of the Law.

DATED: New York, New York

May 26, 2005

DAVID N. KELLEY *David N. Kelley*
United States Attorney for the
Southern District of New York

J. Michael McMahon
CLERK

Marc Litt
Marc Litt
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007

Telephone:

(212) 637-2295

GOVERNMENT
EXHIBIT

12

S2 05 Cr. 621 (KMC) (10)

RIDER

(Grand Jury Subpoena to Amerindo Investment Advisors Inc.)

I. Definitions and Instructions

A. The term “Amerindo Investment Advisors Inc.” (“Amerindo U.S.”) refers to and includes each and every subsidiary, affiliate, officer, employee, agent, attorney, and joint venture under the control or direction of AIA including, but not limited to, Amerindo Investment Advisors (Cayman) Limited (“Amerindo Cayman”), Amerindo Investment Advisors (U.K.) Limited (“Amerindo U.K.”), and Amerindo Investment Advisors (Panama), Inc. (“Amerindo Panama”). (Amerindo U.S., Amerindo Cayman, Amerindo U.K. and Amerindo Panama are hereinafter referred to collectively as “Amerindo.”)

B. The terms “records” and “documents” mean any and all tangible forms of expression in your possession, custody, or control, in any language or format, and include, but are not limited to, writings, papers, tape recordings, electronic recordings, microform, electromagnetic recordings, optical recordings, photographs, drafts, finished versions, originals, and copies, however created, produced or stored.

C. The phrase “Account Information” means, with respect to any responsive account, any record or document which is or appears to be any of the following: signature cards; account opening documentation, operating instructions and agreements; account statements, transcripts and records of transactions; original order tickets; trade tickets; confirmations; credit and debit memos; canceled checks; transfer, deposit and withdrawal items and instructions; loan and line of credit documentation for advances; correspondence with any account holder or agent concerning any matter relating to the account; documents indicating or reflecting the identities, telephone numbers and addresses of any individual or entity with authority over the account; and documents reflecting the deposit, transfer, withdrawal, sale, purchase, loan or other disposition of any asset held in the account.

II. Documents to Be Produced

A. Corporate records concerning Amerindo Investment Advisors Inc. (“Amerindo U.S.”), Amerindo Investment Advisors (Cayman) Limited (“Amerindo Cayman”), Amerindo Investment Advisors (U.K.) Limited (“Amerindo U.K.”), and Amerindo Investment Advisors (Panama), Inc. (“Amerindo Panama”) (Amerindo U.S., Amerindo Cayman, Amerindo U.K. and Amerindo Panama are hereinafter referred to collectively as “Amerindo”), including but not limited to records concerning the formation of each of the above-listed Amerindo entities, its shareholders, principals, officers, directors, and employees, changes in ownership, bylaws,

resolutions, client lists, client files, investment brochures, marketing materials, investment advisory agreements, copies of correspondence sent to or received from clients, and other documents concerning or reflecting the identities of and communications with clients who have investments managed or advised by Amerindo.

B. Documents concerning the following accounts at Bear, Stearns & Company Inc.: Amerindo Management Inc., Sub A/C M26 ("AMI"); Amerindo Technology Growth Fund Inc. ("ATGF I"); Amerindo Technology Growth Fund II, Inc. ("ATGF II"); and, Techno Raquia, SA (collectively, the "Amerindo Brokerage Accounts"), including account opening documents, account statements, wire transfer requests, correspondence, electronic mail messages, trade tickets, trade blotters, trade confirmations, trade allocation sheets, trade memoranda, trade notes, client account statements, memoranda and notes and other documents reflecting or relating to investment performance, and other documents reflecting or relating to securities transactions entered into on behalf of clients, by any current or former Amerindo entity, affiliate, principal, officer and employee;

C. Documents concerning Rhodes Capital ("Rhodes"), including copies of prospectuses, private placement memoranda, subscription agreements, descriptions of the Rhodes investment, lists of investors in Rhodes, returns on the Rhodes investment, allocation of the returns on the Rhodes investment.

D. Current and former client lists, client files, investment brochures, marketing materials, investment advisory agreements, copies of correspondence sent to or received from clients including redemption requests received from clients, and other documents concerning or reflecting the identities of and communications with clients who have investments in the Amerindo Brokerage Accounts;

E. Client lists, client files, investment brochures, marketing materials, investment advisory agreements, copies of correspondence sent to or received from clients, and other documents concerning or reflecting the identities of and communications with clients who have investments managed by Amerindo who receive redemptions through or make investments through overseas bank accounts, and trust accounts, including PTC Management Limited, and Barclays Bank PLC, Nassau, Bahamas, Account No. 3308442.

F. Documents reflecting all investments in which Lily Cates, Lisa Mayer, Debra Mayer, Herbert Mayer, Brian Harvey, Joy Ulrich, or Paul Marcus have a beneficial interest, including descriptions of the investment, account statements, and returns on the investment.

G. Documents reflecting any effort made by any Amerindo entity, including Amerindo SBIC Venture Fund LP to obtain an SBIC license from the U.S. Small Business Administration, including correspondence, Management Assessment Questionnaires, license applications, efforts to obtain investor funds or commitments from investors to invest funds, records reflecting capital commitments and investments, investments undertaken prior to licensure and any documents reflecting how any funds received prior to licensure were invested

pending licensure.

H.. Documents reflecting any Amerindo investment in Guaranteed Fixed Rate Deposit Accounts ("GFRDAs"), including lists of clients with investments in GFRDAs, account statements reflecting investments in GFRDAs, documents reflecting the holdings of any Amerindo entity in certificates of deposit or government securities, and documents reflecting all securities underlying any investment in a GFRDA.

I. Documents reflecting any private bank, brokerage or other account with any financial institution held by Amerindo principals including Alberto William Vilar and Gary Alan Tanaka.

J. Documents reflecting or relating to the cancelation of completed trades and rebooking of those canceled trades in other accounts managed or controlled by Amerindo, or in which Amerindo or its principals have a beneficial ownership interest.

K. Documents reflecting any direct financial or beneficial ownership interest held by Alberto William Vilar or Gary Alan Tanaka in Amerindo and the Amerindo Accounts.

L. Documents reflecting brokerage accounts maintained by Amerindo at any broker-dealer other than Bear, Stearns & Co. Inc., including documents reflecting trades done "away" from Bear, Stearns, and settled in Amerindo accounts at Bear, Stearns.

M. Bank account statements, brokerage account statements, transaction records, wire transfer instructions and records, copies of checks sent to or received from clients, notes, ledgers, cash receipt journals, deposit tickets and records, and other documents reflecting or relating to movements of funds into or out of the Amerindo Brokerage Accounts;

N. Records of expenses such as copies of checks and/or wires sent to landlords, employees, counsel, accountants, brokers, utility companies, and other organizations and individuals who provide goods and services to Amerindo, incorporation and governance documents relating to the various entities through which Amerindo, Alberto William Vilar and Gary Alan Tanaka conduct business, documents representing or reflecting communications with accountants, accounting records, documents reflecting communications with boards of directors, and other documents relating to the running and supervision of the operations of the investment advisory business(es) of Amerindo;

O. Documents reflecting information about any current or former Amerindo employee who had any contact with, or responsibility for the management of, redemptions from, or preparation of account statements for, any current or former Amerindo client that had a direct or indirect interest in the Amerindo Brokerage Accounts.

P. Photographs, address books, Rolodex indices, diaries, calendars, identification documents, travel documents, and other documents reflecting the activities of Alberto William

Vilar and Gary Alan Tanaka.

Q. Facsimile machines used to send and receive documents, which may be analyzed to determine telephone numbers to and from which documents have been sent and which may be also be analyzed to determine whether documents bearing certain "fax lines" were sent from a particular machine;

R. Computers, hard drives, and any other devices or equipments capable of storing data or text in any format, including but not limited to cellular telephones, personal digital assistants, and any other storage media capable of containing data or text in magnetic, electronic, optical, digital, analog, or any other format, used to store information described above, as well as drafts and final versions of documents and correspondence prepared in connection with the running and supervision of the operations of the investment advisory business.

S. Any device (mechanical or electronic, including stamps, electronic signatures, etc.) by which the signature of any current or former client or current or former employee has been or may be affixed to a document by a person other than the individual whose signature is contained on or in the device.

T. Documents concerning the purchase of thoroughbred horses using funds under the management of Amerindo.

U. Documents related to current and former Amerindo clients, other than those records that pertain solely to any publicly traded Amerindo mutual fund.

V. Investment documents and records related to current and former Amerindo clients, other than those records that pertain solely to any publicly traded Amerindo mutual fund.

W. Tax documents and records, other than those documents and records that pertain solely to any publicly traded Amerindo mutual fund.

X. Documents related to any financial activity of Amerindo, other than those records that pertain solely to any publicly traded Amerindo mutual fund, including account statements from any financial institution used by Amerindo to conduct any financial activity.

Y. Documents and records concerning all current and former employees of Amerindo.

Z. Documents related to any audited financial records relating to Amerindo hedge funds or investments other than the audited financial records for any publicly traded Amerindo mutual fund.

***** -COMM, JOURNAL- ***** DATE MAY-26-2005 ***** TIME 13:46 *****

MODE = MEMORY TRANSMISSION

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FACSIMILE COVER SHEET

U.S. ATTORNEY'S OFFICE, SDNY
One St. Andrew's Plaza
New York, NY 10007

From: Marc LittOffice Phone No: (212) 637-2295Fax Number: (212) 637-0083No. pages (including cover sheet): 6Date sent: May 26, 2004

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No. pages (including cover sheet): 6

Date sent: May 26, 2004

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